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and whether such negligence was the proximate cause of the accident, held for the jury.

[Ed. Note.—For other cases, see 12 Va.-W. Va. Enc. Dig. 842, 846.]

**2. Trial (§ 188\*)—Direction of Verdict.**—Action of the trial court in sustaining the objection of counsel for defendant to the argument of plaintiff's counsel on the ground that it was in conflict with the instruction given for defendant held tantamount to direction of verdict for defendant.

[Ed. Note.—For other cases, see 12 Va.-W. Va. Enc. Dig. 627; 14 Va.-W. Va. Enc. Dig. 1067.]

**3. Trial (§ 171\*)—Direction of Verdict—Statutes.**—Despite Acts 1914, c. 331, requiring disregard of harmless error, under Acts 1912, c. 27, in no action tried by a jury may the trial judge give a peremptory instruction directing what verdict shall be rendered, though other than in the matter of directing verdict trial courts have the same power in giving and refusing instructions that they possessed before the act was passed.

[Ed. Note.—For other cases, see 12 Va.-W. Va. Enc. Dig. 627; 14 Va.-W. Va. Enc. Dig. 1067.]

**4. Street Railroads (§ 118 (15\*))—Instructions—Last Clear Chance.**—In an action against a street railway for injuries to a bicycle rider thrown into an excavation between tracks and struck by a car while trying to rise, instructions requested by plaintiff on the doctrine of last clear chance held improperly refused, being supported by plaintiff's evidence.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 389; 16 Va.-W. Va. Enc. Dig. 982; 17 Va.-W. Va. Enc. Dig. 757.]

Error to Law and Chancery Court of City of Norfolk.

Action by B. T. Small against the Virginia Railway & Power Company. To review judgment for defendant, plaintiff brings error. Reversed, and cause remanded for new trial.

*E. R. F. Wells*, of Norfolk, for plaintiff in error.

*A. D. Christian*, of Richmond, *W. H. Venable*, of Norfolk, and *E. R. Williams*, of Richmond, for defendant in error.

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SHELTON *v.* SHELTON.

June 12, 1919.

[99 S. E. 557.]

**1. Divorce (§ 158\*)—Restrictions on Remarriage—Abandonment.**—Court, in granting divorce for abandonment, was not authorized

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

to decree that neither party should again marry upon ground that both had previously been divorced, under Code 1904, § 2265, providing that, in granting divorce for adultery, court may prohibit guilty party from again marrying; such statute having no application to abandonment cases, and court having no right to impose restriction on marriage of divorced party without statutory grant of power.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 748.]

**2. Divorce (§ 154\*)—Final Decree—Reinstatement of Suit—Motion without Notice.**—Court, in granting divorce against nonresident defendant, had no authority to include therein provision giving either party an indefinite time after final decree had been rendered, and case stricken from docket, in which to move to reinstate the suit, without notice, notwithstanding Code 1904, §§ 3233, 3293.

[Ed. Note.—For other cases, see 17 Va.-W. Va. Enc. Dig. 334.]

Appeal from Corporation Court of Lynchburg.

Bill by Mary E. Shelton against John Henry Shelton. From decree in her favor, petitioner appeals. Reversed, with directions.

*Jas. H. Guthrie*, of South Boston, for appellant.

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JOHNSON *v.* ATLANTIC COAST LINE R. CO.

June 12, 1919.

[99 S. E. 558.]

**1. Trial (§ 156 (3)\*—Demurrer to Evidence—Admission.**—It is a rule of decision on demurrer to plaintiff's evidence that the evidence must be taken as true; conflicting evidence for defendant being disregarded.

[Ed. Note.—For other cases, see 4 Va.-W. Va. Enc. Dig. 522.]

**2. Carriers (§ 298 (1)\*—Carriage of Passengers—Injury.**—The right of action of a railroad's passenger for being thrown from a car platform to the ground when the car lurched forward with a jerk is unaffected by the fact that the jerk was caused by the stopping of the train at a crossing to wait for signals before pulling into a station, a fact of which the passenger was not apprised.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 702.]

**3. Carriers (§ 303 (4)\*—Carriage of Passengers—Injuries.**—If a railroad announces a station, though in compliance with Code 1904, § 1294d, cl. 6, throws open the door of the car, and apparently stops the train, and when a passenger comes out to alight, suddenly starts the train with a jerk, and throws the passenger off, the latter has a cause of action for her injuries.

[Ed. Note.—For other cases, see 16 Va.-W. Va. Enc. Dig. 253.]

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.